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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on the 7th April, 1965:—

BILL No. 24 OF 1965

A Bill further to amend the Antiquities (Export Control) Act, 1947.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Antiquities (Export Control) Amendment Act, 1965.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

31 of 1947.

2. In section 2 of the Antiquities (Export Control) Act, 1947 (hereinafter referred to as the principal Act),—

(*a*) for clause (*a*), the following clause shall be substituted, namely:—

'(*a*) "antiquity" includes—

(*I*) (*i*) any coin, sculpture, epigraph or other work of art or craftsmanship,

(*ii*) any article, object or thing detached from a building or cave,

(*iii*) any article, object or thing illustrative of science, art, crafts, literature, religion, customs, morals or politics in bygone ages,

(*iv*) any article, object or thing of historical interest,

(*v*) any article, object or thing declared by the Central Government, by notification in the Official Gazette, to be an antiquity for the purposes of this Act,

which has been in existence for not less than one hundred years; and

(*II*) any manuscript, record or other document which is of scientific, historical, literary or aesthetic value which has been in existence for not less than seventy-five years;';

(*b*) after clause (*a*), the following clause shall be inserted, namely:—

'(*aa*) "Board" means the Board constituted under section 3B;';

(c) after clause (b), the following clauses shall be inserted, namely:—

'(c) "Licensing Committee" means an Antiquities Licensing Committee constituted under section 3A;

(*d*) "prescribed" means prescribed by rules made under this Act.'.

Substitution of new sections for section 3.

3. For section 3 of the principal Act, the following sections shall be substituted, namely:—

Prohibition of export without licence.

"3. No person shall export any antiquity except under and in accordance with a licence granted under this Act.

Antiquities Licensing Committees.

3A. (1) The Central Government may, by notification in the Official Gazette, constitute at such places as it may deem necessary, an Antiquities Licensing Committee consisting of two or more persons who, in its opinion, have special knowledge in matters relating to antiquities.

(2) The number and the term of office of, the manner of filling casual vacancies among, the procedure to be followed in the discharge of their functions by, the salaries and allowances payable to and other matters connected with, the members of a Licensing Committee shall be such as may be prescribed.

Antiquities Appellate Board.

3B. (1) For the purpose of hearing appeals from the orders of Licensing Committees, the Central Government may, by notification in the Official Gazette, constitute a Board to be called the Antiquities Appellate Board.

(2) The Board shall consist of the following members, namely:—

(a) such number of members not exceeding five, as the Central Government may think fit to appoint to the Board to represent—

(i) the National Museum;

(ii) the Archaeological Survey of India;

(iii) the National Archives of India; and

(iv) such other interests as, in the opinion of the Central Government, ought to be represented on the Board;

(b) not more than two members co-opted in such manner as may be prescribed by the members appointed under clause (a).

(3) The Central Government shall nominate one of the members appointed under clause (a) of sub-section (2) to be the Chairman of the Board.

(4) The term of office of, the manner of filling casual vacancies among, the procedure to be followed in the discharge of their functions by, the salaries and allowances payable to and other matters connected with, the members of the Board shall be such as may be prescribed.

Grant of licences, etc.

3C. (1) Any person desiring to export any antiquity may apply in such form and together with such fees as may be prescribed to a Licensing Committee for the grant of a licence.

(2) On receipt of an application under sub-section (1), the Licensing Committee may, after conducting an inquiry in such manner as may be prescribed—

(a) grant a licence, subject to such conditions (including a condition for the delivery by the applicant, at his own

expense, to the Central Government, a replica, copy or other reproduction of such size and nature as may be specified, of the antiquity) as it may deem fit; or

(*b*) refuse, for reasons to be recorded in writing, to grant a licence.

(*3*) The Licensing Committee shall not impose any condition for the delivery of any replica, copy or other reproduction under clause (*a*) of sub-section (*2*) unless it is satisfied that it is necessary for purposes of record and reference to keep such replica, copy or other reproduction.

Power to determine whether or not an article is an antiquity.

3D. (*1*) Any person who is in doubt as to whether any article, object or thing which he intends to export, or which is intended or about to be exported is or is not an antiquity for the purposes of this Act, may refer the question, in such manner as may be prescribed, to a Licensing Committee for a decision.

(*2*) The Licensing Committee shall, after conducting an inquiry in such manner as may be prescribed, decide for reasons to be recorded in writing whether the article, object or thing in respect of which a reference has been made to it under sub-section (*1*) is or is not an antiquity for the purposes of this Act.

Appeals.

3E. (*1*) Any person aggrieved by a condition imposed under clause (*a*) of sub-section (*2*) of section 3C or by an order made under clause (*b*) of that sub-section or by a decision given under section 3D may prefer an appeal in such manner and within such time as may be prescribed to the Board.

(*2*) On receipt of an appeal under sub-section (*1*), the Board may, after giving an opportunity to the appellant to be heard and after making such inquiry as may be necessary, pass such order as it thinks fit and the order of the Board shall be final.".

Substitution of new section for section 4.

4. For section 4 of the principal Act, the following section shall be substituted, namely:—

Application of Act 52 of 1962.

"4. The Customs Act, 1962 shall have effect in relation to all antiquities the export of which is prohibited under section 3, save in so far as that Act is inconsistent with the provisions of this Act and, except that, the provisions of section 125 of that Act notwithstanding, any confiscation authorised under that Act shall be made, unless the Central Government, on an application to it in that behalf, otherwise directs.".

8 of 1878. 52 of 1962.

5. In section 5 of the principal Act, in sub-section (*1*), for the words and figures "Sea Customs Act, 1878, as applied by section 4", the words and figures "Customs Act, 1962" shall be substituted. Amendment of section 5.

6. For section 6 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 6.

'6. (*1*) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to such punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary, or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means a body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.'.

7. In section 7 of the principal Act, for sub-section (*2*), the following sub-sections shall be substituted, namely:— Amendment of section 7.

"(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the number and the term of office of, the manner of filling casual vacancies among, the procedure to be fol-

lowed in the discharge of their functions by, the salaries and allowances payable to and other matters connected with, the members of Licensing Committees;

(*b*) the term of office of, the manner of filling casual vacancies among, the procedure to be followed in the discharge of their functions by, the salaries and allowances payable to and other matters connected with, the members of the Board;

(*c*) the form of application for the grant of a licence under section 3C, the fees payable and the manner in which an inquiry may be made in respect of such applications;

(*d*) the manner in which any question may be referred under section 3D;

(*e*) the form and manner and the time within which appeals may be preferred under section 3E and the manner in which an inquiry may be made in respect of such appeals; and

(*f*) any other matter which is to be, may be, or is required to be, prescribed under this Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

Insertion of new section 7A.

8. After section 7 of the principal Act, the following section shall be inserted, namely:—

Power to make copies or reproductions of replicas, etc., delivered to Central Government.

"7A. The Central Government may, for purposes of record and reference, make or take photographic or other copies or reproductions of replicas, copies or other reproductions delivered to it under this Act.".

STATEMENT OF OBJECTS AND REASONS

The Antiquities (Export Control) Act, 1947 was intended to provide for control of the export of valuable objects of antiquarian or historical interest. Experience of the working of the Act has shown that it is necessary to amend the Act in certain respects.

2. Under the Act, the power to grant licences for export of antiquities is vested in the Central Government and the Director General of Archaeology is authorised to decide whether an article intended for export is an antiquity or not for the purposes of the Act. In the circumstances, all applications for export of antiquities have to be referred to the Director General of Archaeology. This creates difficulties for the intending exporters and the customs authorities, besides consuming a great deal of time. It is, therefore, proposed to constitute Licensing Committees, at such places as it may be deemed necessary, for the purpose of determining whether an article is an antiquity or not and also for granting licences for the export of antiquities. It is also proposed to provide for an appellate authority to hear appeals from the orders of such Licensing Committees.

3. It is necessary to preserve in the country copies, replicas or other reproductions of important antiquities allowed to be exported. It is proposed to make suitable provisions for this purpose.

4. A Committee on archival legislation set up by the Ministry of Education recommended that it would be desirable to bring expressly within the purview of the Act records and documents, etc. It is now proposed to bring records and documents of historical, literary or aesthetic value which have been in existence for not less than seventy-five years within the purview of the Act.

5. The Bill seeks to achieve the above objects.

M. C. CHAGLA.

NEW DELHI;
The 24th February, 1966.

FINANCIAL MEMORANDUM

Proposed section 3A (*vide* clause 3) provides for the constitution of Antiquities Licensing Committees at such places as the Central Government may deem necessary. Proposed section 3B (*vide* clause 3) provides for the constitution of Appellate Board for the purpose of hearing appeals from the orders of Licensing Committees, Ordinarily, the existing Government officers will be appointed as members of the said Committees and the said Board. However, the possibility of non-officials being appointed thereto cannot be ruled out. Thus, some expenditure may be involved from the Consolidated Fund of India. While it is not possible to give any exact indication of such expenditure at this stage, it is considered that such expenditure may come to about Rs. 25,000 per annum.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F.4-11/63-C.3/I, dated the 24th February, 1965 from Shri M. C. Chagla, Minister of Education to the Secretary, Lok Sabha].

The President having been informed of the subject matter of the Bill further to amend the Antiquities (Export Control) Act, 1947, recommends under article 117(3) of the Constitution the consideration of the Bill in the Lok Sabha.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill amends section 7 of the Act to empower the Central Government to make rules in relation to certain additional matters. The additional matters relate *inter alia* to the number and term of office of the members of Antiquities Licensing Committees and of the Antiquities Appellate Board, the procedure to be followed by, the manner of filling casual vacancies among, the salaries and allowances payable to such members and the manner in which inquiries may be made in respect of applications for grant of licences and in respect of appeals preferred from orders of Licensing Committees. These matters pertain to procedure, form or detail and, as such, the delegation of legislative power is of a normal character.

S. L. SHAKDHER,
Secretary.

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